

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 IN RE: NATIONAL : MDL No. 2804
5 PRESCRIPTION OPIATE :
6 LITIGATION : Case No. 17-md-2804
7 APPLIES TO ALL CASES : Hon. Dan A. Polster
8 :
9 :
10 - - - - -
11 DECEMBER 18, 2018
12 - - - - -

13 VIDEOTAPED DEPOSITION OF EUGENE TOMMASI,
14 taken pursuant to notice, was held at Marcus &
15 Shapira, One Oxford Center, 35th Floor, Pittsburgh,
16 Pennsylvania 15219, by and before Ann Medis,
17 Registered Professional Reporter and Notary Public in
18 and for the Commonwealth of Pennsylvania, on Tuesday,
19 December 18, 2018, commencing at 9:00 a.m.
20 - - - - -

21 GOLKOW LITIGATION SERVICES
22 877.370.3377 ph | 917.591.5672 fax
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24
25

	Page 2	Page 4
1	A P P E A R A N C E S	* I N D E X *
2	On behalf of Plaintiffs	EUGENE TOMMASI PAGE
3	WAGSTAFF & CARTMELL, LLP	EXAMINATION BY MR. HUDSON 6, 50, 55
4	BY: TYLER W. HUDSON, ESQUIRE	EXAMINATION BY MR. BARTON 39
5	ERIC D. BARTON, ESQUIRE	EXAMINATION BY MR. BARNES 48, 54
6	4740 Grand Avenue, Suite 300	
7	Kansas City, Missouri 64112	
8	816.701.1100	
9	thudson@wcllp.com	
10	ebarton@wcllp.com	
11	On behalf of Defendant AmerisourceBergen Drug Corporation	* INDEX OF HBC-TOMMASI EXHIBITS *
12	JACKSON KELLY, PLLC	NO. DESCRIPTION PAGE
13	BY: SYLVIA WINSTON NICHOLS, ESQUIRE	Exhibit 1 Invitation to the presentation of 32
14	150 Clay Street, Suite 500	Giant Eagle Pharmacy Year 2015 AOP/
15	P.O. Box 619	Business Plan, 6/24/14
16	Morgantown, West Virginia 26501	HBC_MDL00034114 - 00034149
17	304.284.4138	Exhibit 2 Email, 3/20/18, from L. Kolas to 36
18	sylvia.winston@jacksonkelly.com	G. Chunderlik, subject: Rhodes-
19	On behalf of Defendant Cardinal Health, Inc.	Distributor Questionnaire and
20	PIETRAGALLO GORDON ALFANO BOSICK & RASPANTI, LLP	Supporting Docs, attaching Rhodes
21	BY: ADAM J. TRAGONE, ESQUIRE	questionnaire, GE SOM Program,
22	One Oxford Centre, 38th Floor	GE Officers and Directors List
23	301 Grant Street	HBC_MDL00030616 - 00030622
24	Pittsburgh, Pennsylvania 15219	
25	412.263.2000	
	ajt@piefragallo.com	
1	On behalf of Defendants Endo Pharmaceuticals, Endo Health Solutions and Par Pharmaceuticals (By phone/Livestream)	
2	ARNOLD & PORTER KAYE SCHOLER LLP	
3	BY: ERICA GUTHRIE, ESQUIRE	
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	Page 3	Page 5
1	A P P E A R A N C E S (Continued)	P R O C E E D I N G S
2	On behalf of Defendant HBC Service Company	-----
3	MARCUS & SHAPIRA, LLP	THE VIDEOGRAPHER: We are now on the
4	BY: ROBERT M. BARNES, ESQUIRE	record. My name is Chris Ratano. I'm a
5	One Oxford Centre, 35th Floor	videographer for Golkow Litigation Services.
6	Pittsburgh, Pennsylvania 15219	Today's date is December 18, 2018, and the time is
7	412.471.3490	approximately 9:00. This video deposition is
8	rbarney@marcus-shapira.com	being held in Pittsburgh, PA at Marcus & Shapira,
9	On behalf of Defendant Mallinckrodt	LLP, One Oxford Centre, 35th Floor, in the matter
10	(By phone/Livestream)	of National Prescription Opiate Litigation,
11	ROPES & GRAY, LLP	MDL No. 2804, Case No. 17-md-2804, United States
12	BY: SARA E. BERINHOUT, ESQUIRE	District Court, Northern District of Ohio, Eastern
13	FEIFEI (ANDREA) REN, ESQUIRE	Division.
14	Prudential Tower	The deponent today is Gene Tommasi.
15	800 Boylston Street	Will counsel please identify themselves for
16	Boston, Massachusetts 02199-3600	the record.
17	617.951.7330	MR. HUDSON: Ty Hudson of Wagstaff &
18	sara.berinhout@ropesgray.com	Cartmell for plaintiffs.
19	andrea.ren@ropesgray.com	MR. BARTON: Eric Barton of Wagstaff &
20	On behalf of Defendant McKesson Corporation	Cartmell for plaintiffs.
21	COVINGTON & BURLING, LLP	MR. TRAGONE: Adam Tragone, Pietragallo,
22	BY: RAJ PAUL, ESQUIRE	for Cardinal Health.
23	One CityCenter	MS. WINSTON: Sylvia Winston from
24	850 Tenth Street, NW	Jackson Kelly for AmerisourceBergen.
25	Washington, DC 20001-4956	MR. HUDSON: Robert Barnes for HBC,
	202.662.5807	
	rpaul@cov.com	
	On behalf of Defendant Walmart	
	(By phone/Livestream)	
	JONES DAY, LLP	
	BY: PATRICIA OCHMAN, ESQUIRE	
	North Point	
	901 Lakeside Avenue	
	Cleveland, Ohio 44114-1190	
	216.586.3939	
	pochman@jonesday.com	
	Also present	
	Chris Ratano, videographer	

<p style="text-align: right;">Page 6</p> <p>1 Marcus & Shapira.</p> <p>2 THE VIDEOGRAPHER: The court reporter</p> <p>3 today is Ann Medis, and she will now please swear</p> <p>4 in the witness.</p> <p>5 EUGENE TOMMASI,</p> <p>6 having been first duly sworn, was examined</p> <p>7 and testified as follows:</p> <p>8 EXAMINATION</p> <p>9 BY MR. HUDSON:</p> <p>10 Q. Good morning, sir. Could you please</p> <p>11 state your name for the record.</p> <p>12 A. Yes. It's Eugene Tommasi.</p> <p>13 Q. And, Mr. Tommasi, do you reside here in</p> <p>14 the Pittsburgh area?</p> <p>15 A. I do.</p> <p>16 Q. And are you currently the executive vice</p> <p>17 president and chief supply chain and development</p> <p>18 officer for Giant Eagle?</p> <p>19 A. I'm not.</p> <p>20 Q. What is your current role at Giant</p> <p>21 Eagle?</p> <p>22 A. I'm retired.</p> <p>23 Q. And when did you retire?</p> <p>24 A. June 30 of 2018.</p> <p>25 Q. Prior to retiring, were you the</p>	<p style="text-align: right;">Page 8</p> <p>1 A. It depends.</p> <p>2 Q. Well, let me put it to you this way.</p> <p>3 If you don't understand my question, will you</p> <p>4 let me know so I can kind of make sure I clarify</p> <p>5 it so we're on the same page?</p> <p>6 A. Will do.</p> <p>7 Q. You're doing a good job of this, but, if</p> <p>8 you can, give audible answers for the court</p> <p>9 reporter. She can't pick up on head shakes or</p> <p>10 things like that, so if you can do that.</p> <p>11 And then, lastly, if you need to take a break</p> <p>12 at all, just let me know, and we can go off the</p> <p>13 record.</p> <p>14 A. Okay.</p> <p>15 Q. What did you do to prepare for today's</p> <p>16 deposition?</p> <p>17 A. Very little.</p> <p>18 Q. Were you shown any documents?</p> <p>19 A. Yeah. I saw some documents, yes.</p> <p>20 Q. Did any of those refresh your</p> <p>21 recollection?</p> <p>22 A. Not really.</p> <p>23 Q. Approximately how long did you spend</p> <p>24 preparing for today?</p> <p>25 A. A couple hours.</p>
<p style="text-align: right;">Page 7</p> <p>1 executive officer for supply chain and development</p> <p>2 at Giant Eagle?</p> <p>3 A. Yes.</p> <p>4 Q. And have you had your deposition taken</p> <p>5 before?</p> <p>6 A. I might have. I don't recall.</p> <p>7 Q. Before we get going, let's just make</p> <p>8 sure then that we are on the same page about how a</p> <p>9 deposition works.</p> <p>10 I'm going to be asking you questions, and</p> <p>11 then you will be answering. And from time to</p> <p>12 time, counsel may object. But unless your counsel</p> <p>13 instructs you to answer -- not to answer the</p> <p>14 question, I would ask you to answer the questions</p> <p>15 you were asked.</p> <p>16 Is that fair?</p> <p>17 A. Sounds fair.</p> <p>18 Q. You do understand that you're under oath</p> <p>19 as if we were in a courtroom in front of a judge</p> <p>20 and a jury?</p> <p>21 A. Yes.</p> <p>22 Q. If I ask a question and you answer, I'm</p> <p>23 going to assume that you understood my question</p> <p>24 unless you ask me to clarify.</p> <p>25 Is that fair?</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. Have you read the complaint that was</p> <p>2 filed in this case?</p> <p>3 A. I have not.</p> <p>4 Q. Were you aware of the lawsuit prior to</p> <p>5 being contacted about this deposition?</p> <p>6 A. I was not.</p> <p>7 Q. Let me shift gears, then, to just ask</p> <p>8 you about your education.</p> <p>9 You've got a bachelor of science in economics</p> <p>10 from Allegheny College?</p> <p>11 A. Correct.</p> <p>12 Q. And you began working at Giant Eagle in</p> <p>13 about 1992?</p> <p>14 A. Correct.</p> <p>15 Q. What did you do after graduating from</p> <p>16 college, but before you started working at Giant</p> <p>17 Eagle?</p> <p>18 A. I worked for a food wholesaler.</p> <p>19 Q. What was the name of that food</p> <p>20 wholesaler?</p> <p>21 A. Peter J. Schmitt.</p> <p>22 Q. How long did you work there?</p> <p>23 A. From '82 until I went to work for Giant</p> <p>24 Eagle in '92. Nine and a half years.</p> <p>25 Q. And at Giant Eagle in 1992, did you</p>

Page 10	Page 12
<p>1 start as the director of distribution?</p> <p>2 A. Yes.</p> <p>3 Q. And what were your roles and</p> <p>4 responsibilities in that position?</p> <p>5 A. I was responsible for our frozen food</p> <p>6 facility in Youngstown, Ohio, and a cigarette and</p> <p>7 candy facility in West Newton, Ohio.</p> <p>8 Q. And then, in 1996, were you promoted to</p> <p>9 the VP of retail development store planning?</p> <p>10 A. Correct.</p> <p>11 Q. And what were your roles and</p> <p>12 responsibilities in that position?</p> <p>13 A. I was responsible for independent</p> <p>14 retailing and store planning.</p> <p>15 Q. Did you have a specific region or was</p> <p>16 it --</p> <p>17 A. For the company.</p> <p>18 Q. -- across the entire company?</p> <p>19 A. Yeah.</p> <p>20 Q. And then, in 2005, were you promoted to</p> <p>21 senior vice president of retail operations?</p> <p>22 A. That's correct.</p> <p>23 Q. And tell me about your roles and</p> <p>24 responsibilities as a senior vice president of</p> <p>25 retail operations.</p>	<p>1 MR. BARNES: Object to form.</p> <p>2 THE WITNESS: I'm not sure what you</p> <p>3 mean.</p> <p>4 BY MR. HUDSON:</p> <p>5 Q. I mean, were you aware that Giant Eagle</p> <p>6 had formed a different company called HBC Service</p> <p>7 Corporation -- Service Company?</p> <p>8 MR. BARNES: Same objection.</p> <p>9 THE WITNESS: Yeah. I was aware that we</p> <p>10 formed an HBC company.</p> <p>11 BY MR. HUDSON:</p> <p>12 Q. And do you know when that company was</p> <p>13 formed?</p> <p>14 A. I don't recall the time, no.</p> <p>15 Q. Do you know why that company was formed?</p> <p>16 A. I don't have a specific why.</p> <p>17 Q. Do you have an understanding of what</p> <p>18 operations -- or what the role was for HBC</p> <p>19 Services Company? In other words, why was the</p> <p>20 company formed?</p> <p>21 A. They delivered goods to our stores.</p> <p>22 Q. Was HBC Service Company formed to be a</p> <p>23 distributor?</p> <p>24 A. A wholesale -- yeah. They were a</p> <p>25 warehouse delivering goods to our stores.</p>
<p>1 A. I was responsible for the retail</p> <p>2 operations of the Giant Eagle corporate and</p> <p>3 independent stores.</p> <p>4 Q. And by "retail operations," does that</p> <p>5 mean the supermarkets and convenience store</p> <p>6 locations?</p> <p>7 A. At that time we didn't have convenience</p> <p>8 store locations. But I had, basically, just the</p> <p>9 operations for the supermarket.</p> <p>10 Q. And, again, that was across the entire</p> <p>11 company?</p> <p>12 A. Yes, sir.</p> <p>13 Q. At some point did Giant Eagle decide to</p> <p>14 form a company called HBC Services Company?</p> <p>15 A. Yes.</p> <p>16 Q. Were you involved at all in the decision</p> <p>17 to form that company?</p> <p>18 A. No.</p> <p>19 Q. Were you aware at the time that HBC</p> <p>20 Service Company was an entity that was created</p> <p>21 separate from Giant Eagle?</p> <p>22 MR. BARNES: Object to form.</p> <p>23 I don't know if he knows whether it was</p> <p>24 legal -- you mean a legal entity?</p> <p>25 MR. HUDSON: You can object.</p>	<p>1 Page 11</p> <p>1 Q. And prior to the formation of HBC</p> <p>2 Service Company, who was the wholesaler delivering</p> <p>3 goods to the stores?</p> <p>4 A. I can't remember the name of the</p> <p>5 company. I think there might have been a couple</p> <p>6 different wholesalers.</p> <p>7 I wasn't in the wholesale end of the</p> <p>8 business. I was in the retail end.</p> <p>9 MR. BARNES: Just for clarification, are</p> <p>10 we talking about grocery goods generally or</p> <p>11 controlled substances, or both?</p> <p>12 MR. HUDSON: I don't think there's a</p> <p>13 pending question.</p> <p>14 MR. BARNES: Well, I'm going to object.</p> <p>15 Make sure you're clear about that.</p> <p>16 BY MR. HUDSON:</p> <p>17 Q. So prior to HBC Service Company being</p> <p>18 formed, was Giant Eagle in the business of acting</p> <p>19 as a wholesaler at all?</p> <p>20 A. Yeah. We were a wholesaler for</p> <p>21 supermarket goods.</p> <p>22 Q. In conjunction with HBC Service Company</p> <p>23 being formed, was there a warehouse that was built</p> <p>24 in Washington, Pennsylvania?</p> <p>25 A. I don't believe there was a warehouse</p>

<p style="text-align: right;">Page 14</p> <p>1 built.</p> <p>2 Q. In conjunction with HBC Service Company</p> <p>3 being formed, did they begin operating in a</p> <p>4 warehouse in Washington, Pennsylvania?</p> <p>5 A. Yes.</p> <p>6 Q. Did HBC Service Company have employees?</p> <p>7 A. Yes.</p> <p>8 Q. Were all of those employees located at</p> <p>9 the warehouse in Washington, Pennsylvania?</p> <p>10 A. I don't know that.</p> <p>11 Q. Do you have any knowledge about HBC</p> <p>12 Service Company's role as a distributor of</p> <p>13 opioids?</p> <p>14 A. I do not.</p> <p>15 Q. Do you have any knowledge of what</p> <p>16 products HBC acted as a distributor for?</p> <p>17 MR. BARNES: Again, grocery versus</p> <p>18 controlled substances, are you asking him to make</p> <p>19 that clarification?</p> <p>20 MR. HUDSON: No.</p> <p>21 MR. BARNES: Then I'm going to ask you</p> <p>22 to make that clarification.</p> <p>23 THE WITNESS: I didn't know of all the</p> <p>24 products that were there.</p> <p>25</p>	<p style="text-align: right;">Page 16</p> <p>1 prescription drugs or controlled substances?</p> <p>2 A. I'm sorry. Did you say when?</p> <p>3 Q. Yes.</p> <p>4 A. I don't.</p> <p>5 Q. Is it your understanding that at some</p> <p>6 point HBC Service Company did stop acting as a</p> <p>7 distributor for prescription drugs and controlled</p> <p>8 substances?</p> <p>9 A. I don't know what controlled substances</p> <p>10 they distributed.</p> <p>11 Q. Do you have any knowledge about the --</p> <p>12 and I want to focus in now on the dates between</p> <p>13 2009 and early 2016.</p> <p>14 It's my understanding that between 2009 and</p> <p>15 early 2016, HBC Service Company acted as a</p> <p>16 distributor of opioids.</p> <p>17 Do you know whether that's true or not?</p> <p>18 MR. BARNES: Object to form.</p> <p>19 THE WITNESS: I would have to -- I</p> <p>20 don't -- I believe they distributed to Giant</p> <p>21 Eagles.</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. Do you have any knowledge about how the</p> <p>24 physical supply chain worked in terms of the --</p> <p>25 you know, the process of the prescription drugs</p>
<p style="text-align: right;">Page 15</p> <p>1 BY MR. HUDSON:</p> <p>2 Q. In your role on the retail side of the</p> <p>3 business, what interaction did you have with HBC</p> <p>4 Service Company?</p> <p>5 A. None.</p> <p>6 Q. Do you know how many employees HBC</p> <p>7 Service Company had?</p> <p>8 A. I don't.</p> <p>9 Q. Do you know who was the warehouse</p> <p>10 supervisor at the HBC Service warehouse?</p> <p>11 A. No, I don't.</p> <p>12 Q. Do you know any of the employees at the</p> <p>13 HBC Service warehouse who filled orders for</p> <p>14 prescription drugs?</p> <p>15 A. I didn't.</p> <p>16 Q. Do you know whether HBC Service Company</p> <p>17 obtained a license to act as a distributor of</p> <p>18 controlled substances?</p> <p>19 A. No, I don't.</p> <p>20 Q. Do you know whether or not HBC Service</p> <p>21 Company continues to have operations today?</p> <p>22 A. I believe they do for grocery and candy</p> <p>23 products.</p> <p>24 Q. Do you know whether at some point HBC</p> <p>25 Service Company stopped acting as a distributor of</p>	<p style="text-align: right;">Page 17</p> <p>1 went from the manufacturer to the wholesaler or</p> <p>2 distributor to the retail pharmacies?</p> <p>3 A. Not really, no.</p> <p>4 Q. Do you have any knowledge about the</p> <p>5 relationship between Giant Eagle and McKesson or</p> <p>6 Anda?</p> <p>7 A. I do not.</p> <p>8 Q. Do you have any knowledge about the</p> <p>9 different FDA schedules for controlled substances,</p> <p>10 in other own words, Schedule I, Schedule II,</p> <p>11 Schedule III, Schedule IV, Schedule V?</p> <p>12 A. I know there -- I don't know what they</p> <p>13 are or what the drugs are. I've heard those</p> <p>14 schedules before.</p> <p>15 Q. How did you hear those schedules or when</p> <p>16 did you hear those schedules?</p> <p>17 A. Jeez, it's just sort of like -- I can't</p> <p>18 tell you exactly where or how, but, you know, it's</p> <p>19 just...</p> <p>20 Q. Being in the business at some point</p> <p>21 along the way?</p> <p>22 A. I've heard about schedule, yeah.</p> <p>23 Q. How about the topic of opioids in</p> <p>24 general, is that something -- have you heard the</p> <p>25 phrase "the opioid crisis"?</p>

<p style="text-align: right;">Page 18</p> <p>1 A. Oh, yes. I've heard it.</p> <p>2 Q. And when did you first hear that?</p> <p>3 A. Gosh. I mean, I -- it's all over the</p> <p>4 news all the time. So I can't give you an exact</p> <p>5 date.</p> <p>6 Q. How about -- is that something that</p> <p>7 you've heard of for years?</p> <p>8 A. Years? I think over the past two or</p> <p>9 three.</p> <p>10 Q. In connection with your roles at Giant</p> <p>11 Eagle, did you hear the phrase "the opioid</p> <p>12 crisis"?</p> <p>13 A. No.</p> <p>14 Q. In your roles at Giant Eagle, were there</p> <p>15 any discussions at the executive level about the</p> <p>16 opioid crisis?</p> <p>17 A. Not that I remember.</p> <p>18 Q. Since -- tell me about from January of</p> <p>19 2012 until your retirement. You were an executive</p> <p>20 vice president at Giant Eagle; is that right?</p> <p>21 A. Yes.</p> <p>22 Q. Just describe for me, if you could, the</p> <p>23 chain of command or the corporate hierarchy within</p> <p>24 the company during that time period.</p> <p>25 In other words, you're an executive vice</p>	<p style="text-align: right;">Page 20</p> <p>1 I was preparing for retirement during that</p> <p>2 phase of my career.</p> <p>3 Q. During the time period when you were the</p> <p>4 senior vice president of retail operations, were</p> <p>5 you involved in any discussions about controls</p> <p>6 that would be put in place at the retail stores to</p> <p>7 address the diversion of prescription drugs?</p> <p>8 A. Controls put in place at the retail? I</p> <p>9 would say minimal. I mean, I was more in the</p> <p>10 operations end of the business. It wasn't the</p> <p>11 pharmacy end of the business. It was the -- you</p> <p>12 know, the front ends, the stores, the groceries,</p> <p>13 the meat, the produce.</p> <p>14 Q. As the senior VP of retail operations,</p> <p>15 were there other executives at Giant Eagle who</p> <p>16 reported to you that were responsible for the</p> <p>17 pharmacy?</p> <p>18 A. There was a senior VP of pharmacy. He</p> <p>19 did not report to me. And then there was a vice</p> <p>20 president of pharmacy operations. He reported to</p> <p>21 me for a short period of time while we were</p> <p>22 looking for a new senior VP of pharmacy.</p> <p>23 Q. Was there any -- at the time that you</p> <p>24 were involved in the retail operations for Giant</p> <p>25 Eagle, was there any coordination, to your</p>
<p style="text-align: right;">Page 19</p> <p>1 president. Just describe for me -- were there</p> <p>2 other executive vice presidents? Who did you</p> <p>3 report to?</p> <p>4 A. I reported to the president of the</p> <p>5 company. And I believe at that time there might</p> <p>6 have been one or two other executive VPs;</p> <p>7 definitely one.</p> <p>8 Q. What was the title of the other</p> <p>9 executive VP?</p> <p>10 A. Executive vice president of</p> <p>11 merchandising and marketing.</p> <p>12 Q. When you shifted roles from executive</p> <p>13 vice president of retail operations to executive</p> <p>14 vice president of chief supply chain, did your</p> <p>15 roles expand?</p> <p>16 A. They just changed. That was basically</p> <p>17 in my last year of working at Giant Eagle. I was</p> <p>18 scheduled to retire, so we moved other people into</p> <p>19 the retail operations.</p> <p>20 I took over that part of the business from a</p> <p>21 standpoint mainly because of the real estate end</p> <p>22 of the business and the, what we called,</p> <p>23 independent Giant Eagle stores. And the fellow</p> <p>24 that ran the warehouses reported up through me on</p> <p>25 an interim period.</p>	<p style="text-align: right;">Page 21</p> <p>1 knowledge, between the retail store operations and</p> <p>2 other divisions of Giant Eagle about putting</p> <p>3 controls in place to avoid the diversion of</p> <p>4 prescription drugs?</p> <p>5 A. Not -- not that I -- not that I know of.</p> <p>6 But, I mean, I'm -- yes.</p> <p>7 Q. Who was the senior vice president of</p> <p>8 pharmacy?</p> <p>9 A. There were at that time Randy Heiser.</p> <p>10 Q. When you say -- just so the record is</p> <p>11 clear, when you say "at that time," what time are</p> <p>12 we talking about?</p> <p>13 A. The times that you were talking about.</p> <p>14 I think it was 2012 is when you were talking about</p> <p>15 that.</p> <p>16 Q. And then at some point did that change?</p> <p>17 A. Yes.</p> <p>18 Q. When did that occur?</p> <p>19 A. I don't know the date exactly.</p> <p>20 Q. Tell me what you do know.</p> <p>21 A. I'm retired. What I do now?</p> <p>22 Q. No. Sorry. Tell me what you do -- what</p> <p>23 you do know. Sorry.</p> <p>24 I was saying, at some point the VP of</p> <p>25 pharmacy role changed. And I was saying, tell me</p>

<p style="text-align: right;">Page 22</p> <p>1 what you know.</p> <p>2 A. Well, there was a senior VP. There's --</p> <p>3 and there was always a senior VP, basically, in</p> <p>4 charge. Randy Heiser was there during my tenure.</p> <p>5 Randy Heiser, Brett Merrell and Mark Doerr. And</p> <p>6 now there's a new fellow in place.</p> <p>7 They basically had overall responsibility of</p> <p>8 pharmacy operation -- whole pharmacy</p> <p>9 merchandising.</p> <p>10 Q. Would the VP -- senior VP of pharmacy be</p> <p>11 responsible for overseeing controls at the retail</p> <p>12 level to avoid the diversion of prescription</p> <p>13 drugs?</p> <p>14 A. I would assume he would be responsible</p> <p>15 for all things pharmacy.</p> <p>16 Q. In your role, did you have any</p> <p>17 coordination with them regarding policies or</p> <p>18 controls at the pharmacy?</p> <p>19 A. No. They basically set the policies and</p> <p>20 controls. They were two separate operations.</p> <p>21 Q. In your role, did you have any interface</p> <p>22 with the procurement team for prescription drugs?</p> <p>23 A. No.</p> <p>24 Q. Do you have any knowledge about the</p> <p>25 contracts between Giant Eagle and drug</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Do you have any knowledge about the</p> <p>2 Giant Eagle corporate goals for pharmacies in</p> <p>3 terms of how to drive revenue?</p> <p>4 A. Not really.</p> <p>5 Q. Do you have any knowledge about the</p> <p>6 federal laws and regulations that govern</p> <p>7 distributors of opioids?</p> <p>8 A. I don't have any specific knowledge of</p> <p>9 that, no.</p> <p>10 Q. Do you have any general knowledge of</p> <p>11 that?</p> <p>12 A. I'm just aware that there probably are</p> <p>13 some.</p> <p>14 Q. Do you have any knowledge of what</p> <p>15 distributors of controlled substances are required</p> <p>16 to do under the federal laws and regulations?</p> <p>17 A. I don't have any specific knowledge of</p> <p>18 that, no.</p> <p>19 Q. Do you have any general knowledge of</p> <p>20 that?</p> <p>21 A. Again, I'm just assuming there is</p> <p>22 regulations.</p> <p>23 Q. Do you know whether or not HBC designed</p> <p>24 and operated a system to identify suspicious</p> <p>25 orders of controlled substances?</p>
<p style="text-align: right;">Page 23</p> <p>1 manufacturers to purchase prescription drugs?</p> <p>2 A. No specific knowledge.</p> <p>3 Q. Do you know which particular</p> <p>4 manufacturers Giant Eagle directly purchased from</p> <p>5 in terms of prescription drugs?</p> <p>6 A. Jeez, I imagine there's a lot.</p> <p>7 Q. But in terms of the specifics, that</p> <p>8 wasn't something that you --</p> <p>9 A. I don't know what specific drug was</p> <p>10 purchased from what specific supplier.</p> <p>11 Q. Do you have any knowledge about the</p> <p>12 relationship between Giant Eagle and McKesson or</p> <p>13 Anda?</p> <p>14 A. Do I have any knowledge about the</p> <p>15 relationship?</p> <p>16 Q. Yes.</p> <p>17 A. I know there was one.</p> <p>18 Q. Anything more specific than that?</p> <p>19 A. No. Sorry.</p> <p>20 Q. You can only testify about what you</p> <p>21 know.</p> <p>22 Do you know whether or not there was ever an</p> <p>23 effort within Giant Eagle or HBC to target pain</p> <p>24 management as a corporate business opportunity?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 25</p> <p>1 A. I don't know whether they designed a</p> <p>2 system.</p> <p>3 Q. Do you know whether or not Giant Eagle</p> <p>4 or HBC operated a system to identify suspicious</p> <p>5 orders of controlled substances?</p> <p>6 A. I believe I -- I've heard that, yes.</p> <p>7 Q. And how did you hear that?</p> <p>8 MR. BARNS: I want to just caution you,</p> <p>9 anything outside the context of attorney/client</p> <p>10 privilege. You should limit your answer to things</p> <p>11 that did not involve discussions with Giant</p> <p>12 Eagle's attorneys.</p> <p>13 If you can't answer it, say "I can't answer</p> <p>14 it."</p> <p>15 THE WITNESS: I can't be specific. I</p> <p>16 don't...</p> <p>17 BY MR. HUDSON:</p> <p>18 Q. Other than any conversations or</p> <p>19 communications you had with Giant Eagle attorneys,</p> <p>20 do you have any knowledge about Giant Eagle or</p> <p>21 HBC's operation of a system to identify suspicious</p> <p>22 orders of controlled substances?</p> <p>23 A. I don't have any specific knowledge.</p> <p>24 Q. Again, do you have general knowledge?</p> <p>25 A. Well, very limited.</p>

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<p>1 Q. Could you just -- if you could -- and, 2 again, apart from any knowledge you gained from 3 communications with attorneys, could you tell me 4 what limited knowledge you have?</p> <p>5 A. That there's a system.</p> <p>6 Q. How did you learn there was a system?</p> <p>7 MR. BARNES: Same instruction.</p> <p>8 THE WITNESS: I mean, I don't know. I 9 mean, I can't give you an exact.</p> <p>10 BY MR. HUDSON:</p> <p>11 Q. To your knowledge, what did the system 12 consist of?</p> <p>13 A. I don't know that -- I don't really know 14 what the system consisted of.</p> <p>15 Q. Who was involved in operating the 16 system?</p> <p>17 A. I don't know that either.</p> <p>18 Q. What was the objective of the system?</p> <p>19 A. I'm trying to -- I really don't know.</p> <p>20 Q. Do you know whether the system was 21 successful or unsuccessful?</p> <p>22 A. I don't.</p> <p>23 Q. Do you know how the system operated?</p> <p>24 A. No. I...</p> <p>25 I do not, I should say. I didn't answer.</p>	<p>1 A. I don't.</p> <p>2 Q. Do you know whether or not Giant Eagle 3 or HBC ever reported any orders to the DEA as 4 suspicious orders of opioids?</p> <p>5 MR. BARNES: Same instruction.</p> <p>6 THE WITNESS: I do not.</p> <p>7 BY MR. HUDSON:</p> <p>8 Q. Do you have any knowledge of any 9 corporate controls that existed at Giant Eagle or 10 HBC to reduce the diversion of opioids?</p> <p>11 A. No, I don't.</p> <p>12 Q. Do you have any knowledge of any store 13 controls at the pharmacy operations level that 14 were aimed at reducing the diversion of opioids?</p> <p>15 A. No, not that I could think of.</p> <p>16 Q. Do you have any knowledge of any of the 17 warehouse controls put in place by Giant Eagle or 18 HBC to reduce the diversion of opioids?</p> <p>19 A. I don't have any specific knowledge.</p> <p>20 Q. Do you have any general knowledge?</p> <p>21 A. I don't have anything specific. I mean, 22 I'm just assuming if there was laws that needed to 23 be followed, that we followed them. But I -- you 24 know, I don't -- I don't know what the -- what the 25 systems were or anything like that.</p>
<p>Page 27</p> <p>1 Q. Do you have any knowledge about any 2 investigations by Giant Eagle or HBC to address 3 suspicious orders of controlled substances?</p> <p>4 A. I don't.</p> <p>5 Q. Do you know whether or not Giant Eagle 6 or HBC engaged in any investigations of suspicious 7 orders of controlled substances?</p> <p>8 A. That I'm aware of, no.</p> <p>9 Q. Do you have any knowledge of the volume 10 of opioids shipped by HBC into retail pharmacies 11 in Summit County, Ohio?</p> <p>12 MR. BARNES: Same instruction. Outside 13 the context of anything you might have learned 14 with Giant Eagle's lawyers.</p> <p>15 THE WITNESS: No. I don't have any 16 knowledge.</p> <p>17 BY MR. HUDSON:</p> <p>18 Q. Do you have any knowledge of the volume 19 of opioids shipped by HBC or Giant Eagle just in 20 general?</p> <p>21 A. I do not.</p> <p>22 Q. Do you know whether Giant Eagle or HBC 23 ever stopped a shipment of opioids because it was 24 suspected that there would be -- suspected of 25 diversion?</p>	<p>Page 29</p> <p>1 Q. Do you have any facts that you can point 2 to that would support your assumption that Giant 3 Eagle or HBC was following the law?</p> <p>4 A. I know that Giant Eagle, as a company, 5 follows the laws. I know that that's we do.</p> <p>6 That's my statement.</p> <p>7 Q. Is there anything more specific you can 8 say about your knowledge of efforts by Giant Eagle 9 or HBC to follow the laws that specifically apply 10 to the distribution of opioids?</p> <p>11 A. No. I have nothing to...</p> <p>12 Q. Do you have any knowledge of any reports 13 that were sent by HBC or Giant Eagle to the DEA?</p> <p>14 A. I do not.</p> <p>15 Q. Let me hand you what I'm marking as 16 Tommasi Exhibit 1. If you could take a minute and 17 look at that.</p> <p>18 MR. HUDSON: For the record, Tommasi 19 Exhibit 1 is a multi-page document that's 20 Bates-labeled HBC_MDL00032530 through 534.</p> <p>21 MR. BARNES: Ty, before you go any 22 further, we're going to object to the use of this 23 document. I think it was intended to be a 24 privileged document and should not have been 25 produced.</p>

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<p>1 MR. HUDSON: I'll take this back then.</p> <p>2 I don't think I need to mark it as an exhibit</p> <p>3 then.</p> <p>4 MR. BARNES: I'm just taking down the</p> <p>5 Bates numbers. I'll double-check that at a break.</p> <p>6 MR. HUDSON: I know you sent us several</p> <p>7 documents. I apologize if this was on the list.</p> <p>8 MR. BARNES: The claw-back, you mean?</p> <p>9 MR. HUDSON: Yes.</p> <p>10 BY MR. HUDSON:</p> <p>11 Q. Mr. Tommasi, do you know George</p> <p>12 Chunderlik?</p> <p>13 A. I know George.</p> <p>14 Q. Is he an attorney?</p> <p>15 A. I don't believe so.</p> <p>16 Q. How about Joe Millward, do you know him?</p> <p>17 A. I do know Joe.</p> <p>18 Q. Is he an attorney?</p> <p>19 A. I don't believe so.</p> <p>20 Q. How about Darin Goodwiler?</p> <p>21 A. Yes.</p> <p>22 Q. He's an attorney?</p> <p>23 A. No, not that I know of.</p> <p>24 Q. Greg Carlson, he's not an attorney;</p> <p>25 right?</p>	<p>1 Q. Do you know her?</p> <p>2 A. Yes.</p> <p>3 Q. Is she an attorney?</p> <p>4 A. You know, I think she may be an</p> <p>5 attorney.</p> <p>6 Q. And Mike Bianco?</p> <p>7 A. Yes.</p> <p>8 Q. Is he an attorney?</p> <p>9 A. I do not believe he's an attorney.</p> <p>10 Q. And did you ever attend compliance</p> <p>11 meetings?</p> <p>12 A. I don't recall attending a compliance</p> <p>13 meeting.</p> <p>14 Q. In your role, did you have any interface</p> <p>15 with the compliance department on any issues</p> <p>16 relating to prescription drugs?</p> <p>17 A. No.</p> <p>18 MR. HUDSON: For the record, we've</p> <p>19 withdrawn the exhibit that was initially marked as</p> <p>20 Exhibit 1.</p> <p>21 (HBC-Tommasi Exhibit 1 was marked.)</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. And so now I'm going to hand you,</p> <p>24 Mr. Tommasi, what's now been marked as Tommasi</p> <p>25 Exhibit 1.</p>
<p>1 A. Correct. Not that I know of.</p> <p>2 Q. And Debbie Krasnow, is she an attorney?</p> <p>3 Do you know who she is?</p> <p>4 A. Yeah. I know who she is.</p> <p>5 Q. Is she in compliance?</p> <p>6 A. I don't -- she's in the pharmacy -- on</p> <p>7 the pharmacy team. I don't know what her specific</p> <p>8 role is.</p> <p>9 Q. How about Dominic Bertucci?</p> <p>10 A. I know him, yes.</p> <p>11 Q. He's not an attorney; right?</p> <p>12 A. No.</p> <p>13 Q. Robbi Robinson?</p> <p>14 A. Yes. She's an attorney.</p> <p>15 Q. She is an attorney?</p> <p>16 A. I do know that.</p> <p>17 Q. Do you know if she's in compliance?</p> <p>18 A. In compliance with what?</p> <p>19 Q. The compliance department.</p> <p>20 A. I don't know for sure.</p> <p>21 Q. How about Justin Zimmerman?</p> <p>22 A. Justin Zimmerman? I do know Justin. He</p> <p>23 may be an attorney. I'm not positive though.</p> <p>24 Q. How about Mary Gibson?</p> <p>25 A. Yes.</p>	<p>1 For the record, as you take a look, that</p> <p>2 Tommasi Exhibit 1 is a multi-page document that's</p> <p>3 Bates-labeled HBC_MDL00034114 through 34149.</p> <p>4 Do you recognize this document, Mr. Tommasi?</p> <p>5 A. Yes.</p> <p>6 Q. And is this an annual operating plan for</p> <p>7 Giant Eagle?</p> <p>8 A. I don't think it's for Giant Eagle. It</p> <p>9 looks like it's for pharmacy.</p> <p>10 Q. And so this would be the operating plan</p> <p>11 specific to the pharmacy division of Giant Eagle?</p> <p>12 A. I don't know if it's the actual plan.</p> <p>13 It's a presentation.</p> <p>14 Q. And tell me, if you could, do you have a</p> <p>15 recollection of this -- of attending a</p> <p>16 presentation where this business plan was</p> <p>17 discussed?</p> <p>18 A. Specifically to this business plan, I</p> <p>19 can't be sure. It was a long time ago.</p> <p>20 Q. Were you involved in any of the business</p> <p>21 planning for the pharmacy department?</p> <p>22 A. Not -- no.</p> <p>23 Q. Why were you copied on the distribution</p> <p>24 list for this business plan?</p> <p>25 A. Because I'm copied on a lot of -- you</p>

<p style="text-align: right;">Page 34</p> <p>1 know, in general, the same reason a lot of these 2 other people were copied. 3 Q. Do you know whether you ever read this 4 business plan? 5 A. If it was given to me, I would say I 6 read it. 7 Q. Did you have any involvement in trying 8 to define the role of pharmacy within Giant Eagle? 9 A. No. 10 Q. If we turn to the document that's got 11 the Bates label that's ending 124 on the bottom 12 right -- it's the HBC number. 13 A. 124? 14 Q. Yes, sir. 15 A. Page 10? 16 Q. Yep, exactly. 17 There, it says, "Within Giant Eagle pharmacy 18 is critical to our success." 19 Do you see that? 20 A. Yes. 21 Q. Was that your understanding, that 22 pharmacy was critical to Giant Eagle's success? 23 A. I mean, I'm not going to use the word 24 "critical." 25 Q. Were there efforts within Giant Eagle to</p>	<p style="text-align: right;">Page 36</p> <p>1 scripts. 2 Q. I'm sorry. Filling scripts. 3 A. I think that's what we do. We fill 4 scripts. 5 Q. So how would -- how would a pharmacy 6 that fills prescriptions drive prescriptions? 7 A. Offer better service. Limit like wait 8 time standing in line. Offer better service to 9 the customers. Give them adequate attention to 10 their needs. 11 Q. And then any other ways that you would 12 drive scripts? 13 A. That's... 14 Q. Were you involved in anything more 15 specific in the strategy or planning for the 16 pharmacy department of Giant Eagle? 17 A. No, sir. 18 (HBC-Tommasi Exhibit 2 was marked.) 19 BY MR. HUDSON: 20 Q. I'll hand you what we've marked as 21 Tommasi Exhibit 2. 22 Tommasi Exhibit 2 is Bates-labeled 23 HBC_MDL00030616 through 622. 24 And I will direct your attention, 25 Mr. Tommasi, to the back, the last page of this</p>
<p style="text-align: right;">Page 35</p> <p>1 try to increase the number of scripts written by 2 the pharmacy? 3 A. The efforts of the -- my recollection is 4 to grow the pharmacy business through service. 5 Q. If we turn to page 11 of this 6 presentation, it says, No. 3, "Fiscal Year '15 7 Strategic Priorities." 8 Do you see that? 9 A. Yes, sir. 10 Q. And then if you turn to the next page, 11 do you see there, "Deliver the Pharmacy Vision"? 12 A. Yes, sir. 13 Q. And then down below, under "Vision," 14 it's got "Objective"? 15 A. Yes. 16 Q. It says, "Drive scripts and trips." 17 Do you know what that means? 18 A. Yeah. Drive prescriptions -- scripts 19 and trips to the store. 20 Q. So the idea would be to increase the 21 number of prescriptions being written by Giant 22 Eagle pharmacies because that would increase the 23 number of trips that people would make to Giant 24 Eagle stores? 25 A. Giant Eagle pharmacies don't write</p>	<p style="text-align: right;">Page 37</p> <p>1 document. 2 Do you see there under "Officers and 3 Directors List," you're listed as one of the 4 officers? 5 A. Yes, sir. 6 Q. Did you have -- in your role at Giant 7 Eagle, did you have any involvement with the 8 relationships between drug manufacturers and Giant 9 Eagle or HBC? 10 A. No, not at all. 11 Q. Have you ever seen Exhibit 2 before 12 today. 13 A. No. That's why I was looking at it. 14 MR. HUDSON: Let's just take a 15 five-minute break. We'll go off the record. 16 THE VIDEOGRAPHER: 9:44. We are off the 17 video record. 18 (Recess from 9:44 a.m. to 9:57 a.m.) 19 THE VIDEOGRAPHER: 9:57. We are on the 20 video record. 21 MR. BARNES: Ty, before you start, I do 22 want to confirm. 23 I confirmed during the break that Exhibit 1 24 is a privileged document. It was intended to 25 be -- it has already been the subject of a</p>

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<p>1 claw-back and/or will be the subject of a 2 claw-back. 3 MR. HUDSON: Okay. And just for the 4 record, we've withdrawn that. So it's not 5 Exhibit 1. 6 MR. BARNES: Okay. 7 MR. HUDSON: So it's been withdrawn and 8 wasn't used. 9 MR. BARNES: Thank you. 10 BY MR. HUDSON: 11 Q. Mr. Tommasi, do you have any knowledge 12 about hydrocodone combination products? 13 A. I don't. 14 Q. Do you have any knowledge about 15 profitability of the pharmacy as it relates to 16 Giant Eagle's overall profitability? 17 A. I don't. 18 Q. Do you have any knowledge about any of 19 the opioids that were sold by Giant Eagle? 20 A. I don't. 21 MR. BARNES: Object to the form of the 22 question. 23 I think you know, Tyler, there's only one 24 opioid at issue in this case that was distributed 25 by HBC.</p>	<p>1 But starting when you were senior VP of 2 retail operations, at that point in time, is it 3 your recollection that there would have also been 4 or was also a senior VP of pharmacy? 5 A. Yes. 6 Q. And you later became executive vice 7 president of retail operations; correct? 8 A. Right. 9 Q. And do you recall about when that 10 occurred? 11 A. 2014. 12 Q. At that time was there also an executive 13 vice president of pharmacy? 14 A. Not an executive vice president, but a 15 senior vice president. 16 Q. Is there now an executive vice president 17 of pharmacy? 18 A. I'm not sure if it's senior VP or 19 executive VP. 20 Q. When you were made executive vice 21 president of retail operations, I think you said 22 the senior VP of pharmacy did not report to you? 23 A. That's correct. 24 Q. So at that point in time retail 25 operations within your company was really defined</p>
<p style="text-align: center;">Page 39</p> <p>1 MR. HUDSON: I don't have any further 2 questions. 3 MR. BARTON: I have just a few. 4 EXAMINATION 5 BY MR. BARTON: 6 Q. Mr. Tommasi, Eric Barton, also from 7 Wagstaff & Cartmell. Just a few questions on 8 behalf of plaintiffs. 9 I want to go back to the organizational chart 10 that Mr. Hudson asked you some questions about 11 your role in the company during certain time 12 periods. 13 So starting with when you were senior VP of 14 retail operations, which I think I understood you 15 to say you took on that role in about 2005; is 16 that correct? 17 A. I don't have the chart in front of me. 18 I can't remember exactly the date. 19 Q. I'm only asking for your best 20 recollection. 21 A. Yeah. Okay. 22 Q. I realize 2005 probably feels like, you 23 know, 1995. 24 A. That's fair. 25 Q. To some of us it's hard to remember.</p>	<p style="text-align: center;">Page 41</p> <p>1 as the grocery side of the business, the 2 non-pharmacy side? 3 A. Yeah. Retail operations during the 4 whole tenure is typically defined that way, yes. 5 Q. As executive vice president of retail 6 operations, were the revenues and profits of the 7 pharmacy side of the business, were they relevant 8 to you as executive VP of retail operations? 9 A. Explain "relevant" to me. 10 Q. That's fine. Were you -- did you 11 receive reports that provided the economic 12 results, revenues and profits of the pharmacy side 13 of the stores? 14 A. I see multiple reports on all parts of 15 the business as far as sales and profits. 16 Q. So you regularly received reports of the 17 performance of the stores, I assume; correct? 18 A. Of the stores, correct. 19 Q. And those reports included both the 20 grocery side and the pharmacy side? 21 A. Yes, they would. 22 Q. As an executive vice president, did your 23 compensation include any kind of bonuses or 24 incentives based on performances of the stores? 25 A. Yeah. Of the -- based on the</p>

<p style="text-align: right;">Page 42</p> <p>1 performance of the total company.</p> <p>2 Q. And the total company would include the</p> <p>3 performance of all of the stores owned by the</p> <p>4 company; correct?</p> <p>5 A. Yes.</p> <p>6 Q. And so the profitability, for instance,</p> <p>7 of the pharmacy side of the business was a factor</p> <p>8 in your compensation in some degree; correct?</p> <p>9 A. In -- in the bonuses, yes.</p> <p>10 Q. Over time -- and I want to -- well, let</p> <p>11 me go back now because I've been asking these</p> <p>12 questions about when you were executive vice</p> <p>13 president.</p> <p>14 Was the same true -- in terms of having bonus</p> <p>15 compensation, was that true when you were a senior</p> <p>16 vice president of retail operations?</p> <p>17 A. I had bonus compensation when I was a</p> <p>18 senior VP, yes.</p> <p>19 Q. Was that also based on the performance</p> <p>20 of the company as a whole?</p> <p>21 A. Yes.</p> <p>22 Q. I'm sure this may vary from store to</p> <p>23 store, so I won't ask you on a store level, I want</p> <p>24 to ask on a company level.</p> <p>25 On a company level, from 2005 forward -- and</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. And you looked at them for the company</p> <p>2 as a whole --</p> <p>3 A. In total.</p> <p>4 Q. -- all of the stores?</p> <p>5 A. Yes. In total, yes.</p> <p>6 Q. Did you look at them at any level other</p> <p>7 than as the company as a whole?</p> <p>8 In other words, are there regions or</p> <p>9 territories that you would focus on specifically?</p> <p>10 A. There were different regions, yes, but</p> <p>11 it all rolled up into the total.</p> <p>12 Everybody -- so there were individual P & Ls</p> <p>13 and there were total P & Ls. I focused on the</p> <p>14 bigger picture. I have other folks under me that</p> <p>15 focused on the -- on the rest.</p> <p>16 Q. So during the time then that you -- from</p> <p>17 the time that you were senior VP of retail</p> <p>18 operations forward, so really from 2005-ish</p> <p>19 forward to the time you retire, do you recall</p> <p>20 there being any company strategies that focused</p> <p>21 specifically on increasing the profitability of</p> <p>22 the pharmacy side of the business?</p> <p>23 A. In general, I think there are strategies</p> <p>24 in growing our overall business, not just</p> <p>25 pharmacy.</p>
<p style="text-align: right;">Page 43</p> <p>1 I'm asking just -- I'm asking this just in</p> <p>2 ballpark terms, not specifically right now.</p> <p>3 In ballpark terms, how did the profits of the</p> <p>4 company from the retail operations compare to the</p> <p>5 profits of the company from pharmacy operations?</p> <p>6 MR. BARNES: Object to form. Lack of</p> <p>7 relevance.</p> <p>8 THE WITNESS: I mean, I don't -- I</p> <p>9 couldn't -- I can't remember the comparisons.</p> <p>10 BY MR. BARTON:</p> <p>11 Q. Impossible for you to say over time how</p> <p>12 they compared at all?</p> <p>13 A. Yeah. I mean, I wouldn't want to say</p> <p>14 something that's not factual and I don't have any</p> <p>15 of the numbers in front of me, so I don't -- I</p> <p>16 can't...</p> <p>17 Q. Year to year, that's something the</p> <p>18 company obviously tracked; correct?</p> <p>19 A. Yes.</p> <p>20 Q. And so every -- and how did you track</p> <p>21 those numbers at the executive officer level?</p> <p>22 Did you look at those reports on a monthly</p> <p>23 basis? A quarterly basis?</p> <p>24 A. I looked at the reports on a monthly</p> <p>25 basis.</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. Just describe kind of where strategy</p> <p>2 meetings took place within the company for growing</p> <p>3 the overall business of the company.</p> <p>4 Did that -- did that happen -- did those</p> <p>5 meetings happen on a monthly basis? On a</p> <p>6 quarterly basis? Annual basis?</p> <p>7 A. Well, it depends. I'm sure there were</p> <p>8 people that had meetings on planning service</p> <p>9 level, and so on and so forth, throughout the</p> <p>10 company on a monthly basis.</p> <p>11 We basically would sit down and take a look</p> <p>12 at where we're standing as far as what our</p> <p>13 potential growth is in the market -- and I'm</p> <p>14 speaking more of a retail operations growth -- and</p> <p>15 what cost savings ideas we can put together.</p> <p>16 I mean, and -- you know, we used to look at</p> <p>17 that two or three times a year, set the course and</p> <p>18 move forward.</p> <p>19 And, you know, depending on what's going on</p> <p>20 with competition or whatnot, you know, define how</p> <p>21 to guide the ship to best grow sales. And I'm</p> <p>22 talking in supermarket sales.</p> <p>23 Q. Did you have any regular meetings --</p> <p>24 again, whether they were monthly, quarterly, or</p> <p>25 annual.</p>

<p>Page 46</p> <p>1 Did you have any regular meetings with the 2 senior VP of pharmacy?</p> <p>3 A. Me personally?</p> <p>4 Q. Yes.</p> <p>5 A. No, not one-on-one.</p> <p>6 Q. Well, and I don't mean to limit it to 7 one-on-one.</p> <p>8 Did you have any -- did you have any meetings 9 of senior VPs where you would get together 10 specifically to review and discuss the business?</p> <p>11 A. Yes.</p> <p>12 Q. And just what was the -- how did those 13 occur? Was that --</p> <p>14 A. They were scheduled.</p> <p>15 Q. And they would occur at company 16 headquarters?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Was that a monthly occurrence or --</p> <p>19 A. It would happen -- it was scheduled 20 weekly. It would happen probably 30 weeks a year.</p> <p>21 Q. And these weekly scheduled meetings 22 you're referring to, who typically attended these 23 meetings?</p> <p>24 A. The executive team.</p> <p>25 Q. And who do you consider to -- who</p>	<p>Page 48</p> <p>1 questions.</p> <p>2 EXAMINATION</p> <p>3 BY MR. BARNES:</p> <p>4 Q. Mr. Tommasi, you were asked a few 5 questions just a couple minutes ago about business 6 meetings, and pharmacy meetings, and pharmacy 7 profitability, and how it related to the stores 8 generally.</p> <p>9 Do you recall those?</p> <p>10 A. Yes.</p> <p>11 Q. Do you recall any approach or strategy 12 by Giant Eagle to increase sales of opioids at any 13 time in any part of the company?</p> <p>14 A. No.</p> <p>15 Q. Were any executives or pharmacists or 16 employees ever bonused or incentivized to increase 17 the sale of opioids in any way, shape, or form?</p> <p>18 A. No.</p> <p>19 Q. You were asked a few questions about the 20 membership of the so-called pharmacy regulatory 21 review committee.</p> <p>22 Do you remember those questions? Who was 23 George Chunderlik, et cetera?</p> <p>24 Do you remember that?</p> <p>25 A. Yeah. I think a few minutes ago.</p>
<p>Page 47</p> <p>1 consisted of the executive team during this time 2 period by title?</p> <p>3 A. Well, it was -- it floated. There was 4 certain VPs, certain senior VPs, the president, 5 CEO, executive VPs.</p> <p>6 Q. And did these meetings have printed 7 agendas and minutes?</p> <p>8 A. They didn't have minutes. There used to 9 be -- we would call LOB presentations. You know, 10 here's where we're going with turkeys this year. 11 Here's how we're planning the holiday sales. You 12 know, the Steelers are in the playoffs. We're 13 going to bring in all kind of T-shirts and such. 14 I'm serious. It got to that type of 15 discussion, which -- and, you know, we'd have 16 overall review of the business. We didn't review 17 the business every week because you really 18 couldn't. But we'd have typically a P & L meeting 19 every six weeks.</p> <p>20 Q. Was that pattern fairly consistent 21 during the time you were in senior management?</p> <p>22 A. Yeah. Yes.</p> <p>23 MR. BARTON: No further questions.</p> <p>24 THE VIDEOGRAPHER: Anyone else?</p> <p>25 MR. BARNES: I just have a couple</p>	<p>Page 49</p> <p>1 Q. Right. Ty Hudson asked you those 2 questions.</p> <p>3 A. Yes.</p> <p>4 Q. What was the purpose of that committee?</p> <p>5 A. Well, you know, I think there were 6 multiple lawyers and business people on there. 7 And it was a legal compliance-type committee.</p> <p>8 Q. Was it designed to look at the company's 9 compliance with laws and regulations that affected 10 the business in any way?</p> <p>11 A. Yeah. It was a legal compliance 12 committee.</p> <p>13 Q. Was outside counsel also on that 14 committee?</p> <p>15 A. Actually, yeah. I actually got -- you 16 know, I actually know -- sorry. Steve Zubrow was 17 the outside counsel who has passed away. That's 18 why I stumbled there a little bit.</p> <p>19 He led the committee.</p> <p>20 Q. And as part of those committee meetings, 21 was legal advice sought and obtained by the 22 company from its internal and outside lawyers?</p> <p>23 A. Yeah. Best of my knowledge, yes.</p> <p>24 Q. You were asked some questions about, 25 while you were senior VP of retail operations,</p>

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<p>1 what some of the controls were at the pharmacy 2 level -- overall controls with respect to 3 dispensing controlled substances. 4 Do you recall those questions? 5 A. Vaguely. 6 Q. Do you know one way or the other what 7 the controls were or weren't, or you just have no 8 knowledge about them generally? 9 A. I don't have any, generally, knowledge 10 about them.</p> <p>11 Q. Was that below your pay grade, so to 12 speak?</p> <p>13 A. Well, I wouldn't say it that way, but 14 other folks were responsible for that, yes.</p> <p>15 MR. BARNES: Okay. I have nothing 16 further.</p>	<p>1 being shipped to Giant Eagle retail pharmacies, 2 then that means that there's going to be less 3 opioids available to the Giant Eagle retail 4 pharmacies; correct? 5 A. Either that or they'd get them from 6 somewhere else. 7 Q. Right. But if HBC stopped those 8 shipments, at least those shipments that were 9 stopped would not have then be sent to Giant Eagle 10 pharmacies; correct? 11 A. If they stopped shipments, you're saying 12 we wouldn't go out and try to get shipments 13 somewhere else? 14 Q. Well, if you -- if HBC Service Company 15 stopped shipments of opioids to Giant Eagle retail 16 pharmacies because there was a suspicion of 17 diversion -- right? 18 A. I don't know that there's any suspicion 19 of diversion here. 20 Q. Right. I'm saying -- 21 A. You're not saying that. You're saying 22 if they closed their doors, they wouldn't be 23 shipping to the pharmacies. 24 Q. I'm saying if HBC Service Company 25 stopped the shipment of opioids to Giant Eagle</p>	
<p>17 RE-EXAMINATION</p> <p>18 BY MR. HUDSON:</p> <p>19 Q. Mr. Tommasi, I've just got a couple of 20 follow-up questions.</p> <p>21 You were asked whether there were specific 22 efforts by Giant Eagle to increase the sale of 23 opioids, right, and you said no?</p> <p>24 A. Yes.</p> <p>25 Q. But you do agree, in Cleveland and in</p>	<p>Page 51</p> <p>1 Summit County and in Cuyahoga County, Giant Eagle 2 did fill lots of prescriptions for opioids; right? 3 A. I don't know specifically. 4 Q. There were millions of dosage units of 5 opioids that were filled by Giant Eagle in Summit 6 County, Cuyahoga County, and Cleveland; correct? 7 A. I don't know that. 8 Q. In terms of your bonus, if those 9 prescriptions were filled and the company made 10 money from those sales, that would increase your 11 bonus; right? 12 A. I mean, that's kind of -- if we made 13 money from anything that we did, legally -- 14 Q. Correct. 15 A. -- yeah, I mean, it increases the 16 profitability of the company, that would affect my 17 bonus. 18 Q. Right. And if you stopped shipments of 19 opioids to Giant Eagle stores, then those 20 shipments would not be prescriptions that would be 21 filled; correct? 22 A. I guess. I don't know. I don't know. 23 I mean -- 24 Q. Well, in other words, at the distributor 25 level, if HBC Service Company stops opioids from</p>	<p>Page 53</p> <p>1 retail pharmacies, then that would reduce the 2 drugs or opioids available to those Giant Eagle 3 pharmacies; correct? 4 A. From that supplier, yes. 5 Q. Right. Right. And that would 6 potentially have an impact on the revenue of Giant 7 Eagle pharmacy; right? 8 MR. BARNES: Object to the form. You're 9 asking him to speculate. 10 THE WITNESS: Yeah. I mean, I don't 11 know. I don't know how much we sold. I don't -- 12 I just don't know.</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. I'm -- my point is simply that 15 there's -- there is a connection between the sale 16 of opioids and bonuses that you received in the 17 sense that you were bonused on the overall 18 performance of the company; right? 19 A. I was bonused on the overall performance 20 of the company. 21 Q. Right. And one source of revenue for 22 the company was the pharmacy's efforts to fill 23 prescriptions; right? 24 A. To fill prescriptions. 25 Q. Right.</p>

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<p>1 A. Yes.</p> <p>2 Q. And one of the types of prescriptions</p> <p>3 filled were opioids.</p> <p>4 A. I'm assuming.</p> <p>5 Q. And, in particular, in Cleveland and in</p> <p>6 Summit County and in Cuyahoga County, there were</p> <p>7 millions of units of opioids shipped into those</p> <p>8 counties by HBC Services Company.</p> <p>9 A. I don't know that. I'm sorry. I don't</p> <p>10 know that -- I don't know that.</p> <p>11 MR. HUDSON: I don't have any further</p> <p>12 questions.</p> <p>13 MR. BARNES: I have a follow-up question</p> <p>14 or two.</p> <p>15 RE-EXAMINATION</p> <p>16 BY MR. BARNES:</p> <p>17 Q. These millions of units that have been</p> <p>18 represented to you were allegedly shipped into</p> <p>19 these counties, what happened to those millions of</p> <p>20 units of opioids, assuming that that's an accurate</p> <p>21 representation?</p> <p>22 What happened to those pills?</p> <p>23 A. I'm assuming there were prescriptions</p> <p>24 written by doctors that were given to patients.</p> <p>25 Q. And would stopping a shipment of</p>	<p>1 inventory on hand that we could fill it with. I'm</p> <p>2 not sure.</p> <p>3 BY MR. HUDSON:</p> <p>4 Q. Is it your testimony that if HBC Service</p> <p>5 Company had stopped shipments for suspected</p> <p>6 diversion, that that would have had no impact at</p> <p>7 all on Giant Eagle's bottom line?</p> <p>8 MR. BARNES: Object to form. Calls for</p> <p>9 speculation.</p> <p>10 Go ahead.</p> <p>11 THE WITNESS: I would have to know how</p> <p>12 much, you know, if it's one pill, if it's -- I</p> <p>13 don't know. I mean, it's all what-if. I can't</p> <p>14 answer that. I'm sorry.</p> <p>15 MR. HUDSON: I don't have any further</p> <p>16 questions.</p> <p>17 MR. BARNES: Nothing further. Thank</p> <p>18 you.</p> <p>19 THE VIDEOGRAPHER: 10:22. We are off</p> <p>20 the video record. This concludes the video</p> <p>21 deposition of Gene Tommasi.</p> <p>22 (Whereupon, at 10:22 a.m., the taking of</p> <p>23 the instant deposition ceased.)</p> <p>24</p> <p>25</p>
<p>1 Schedule III controlled substances to any</p> <p>2 particular store on any particular day have any</p> <p>3 effect on anybody's bonus, to your knowledge?</p> <p>4 A. On any particular day? No. I don't</p> <p>5 think so.</p> <p>6 MR. BARNES: Nothing further.</p> <p>7 RE-EXAMINATION (Continued)</p> <p>8 BY MR. HUDSON:</p> <p>9 Q. How do you know that?</p> <p>10 A. Well, I don't think it's -- it's not</p> <p>11 relevant. On any particular day a stopment [sic]</p> <p>12 of a shipment, the overall effect is negligent.</p> <p>13 Q. Well, if the shipment was -- if HBC</p> <p>14 Service Company stopped a shipment of opioids from</p> <p>15 going to one of the Giant Eagle retail pharmacies</p> <p>16 because there was a -- because there was suspicion</p> <p>17 of diversion, meaning that it would be diverted</p> <p>18 for illegal purposes, wouldn't that mean, overall,</p> <p>19 there would be a decrease in the pills that were</p> <p>20 going to be available to be prescribed at that</p> <p>21 Giant Eagle pharmacy?</p> <p>22 MR. BARNES: Object to form. Calls for</p> <p>23 speculation.</p> <p>24 THE WITNESS: Yeah. I'm not sure</p> <p>25 what -- I don't know. I mean, we may have</p>	<p>1 COMMONWEALTH OF PENNSYLVANIA)</p> <p>2 COUNTY OF ALLEGHENY) SS:</p> <p>3 C E R T I F I C A T E</p> <p>4 I, Ann Medis, Registered Professional</p> <p>5 Reporter, Certified Livenote Reporter and Notary</p> <p>6 Public within and for the Commonwealth of</p> <p>7 Pennsylvania, do hereby certify:</p> <p>8 That EUGENE TOMMASI, the witness whose</p> <p>9 deposition is hereinbefore set forth, was duly</p> <p>10 sworn by me and that such deposition is a true</p> <p>11 record of the testimony given by such witness.</p> <p>12 I further certify the inspection,</p> <p>13 reading and signing of said deposition were not</p> <p>14 waived by counsel for the respective parties and</p> <p>15 by the witness.</p> <p>16 I further certify that I am not related</p> <p>17 to any of the parties to this action by blood or</p> <p>18 marriage and that I am in no way interested in the</p> <p>19 outcome of this matter.</p> <p>20 IN WITNESS WHEREOF, I have hereunto set</p> <p>21 my hand this 21st day of December, 2018.</p> <p>22</p> <hr/> <p>23 Notary Public</p> <p>24</p> <p>25</p>

1 INSTRUCTIONS TO WITNESS 2 3 Please read your deposition 4 over carefully and make any necessary 5 corrections. You should state the reason 6 in the appropriate space on the errata 7 sheet for any corrections that are made. 8 After doing so, please sign 9 the errata sheet and date it. 10 You are signing same subject 11 to the changes you have noted on the 12 errata sheet, which will be attached to 13 your deposition. 14 It is imperative that you 15 return the original errata sheet to the 16 deposing attorney within thirty (30) days 17 of receipt of the deposition transcript 18 by you. If you fail to do so, the 19 deposition transcript may be deemed to be 20 accurate and may be used in court. 21 22 23 24	Page 58	Page 60 1 ACKNOWLEDGMENT OF DEPONENT 2 3 4 I, _____, do 5 hereby certify that I have read the 6 foregoing pages, and that the same is 7 a correct transcription of the answers 8 given by me to the questions therein 9 propounded, except for the corrections or 10 changes in form or substance, if any, 11 noted in the attached Errata Sheet. 12 13 14
1 - - - - - 2 E R R A T A 3 - - - - - 4 PAGE LINE CHANGE 5 _____ 6 REASON: _____ 7 _____ 8 REASON: _____ 9 _____ 10 REASON: _____ 11 _____ 12 REASON: _____ 13 _____ 14 REASON: _____ 15 _____ 16 REASON: _____ 17 _____ 18 REASON: _____ 19 _____ 20 REASON: _____ 21 _____ 22 REASON: _____ 23 _____ 24 REASON: _____	Page 59	15 EUGENE TOMMASI DATE 16 17 18 Subscribed and sworn 19 to before me this 20 ____ day of _____, 20____. 21 My commission expires: _____ 22 23 24